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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,775	02/22/2002	Edward Allen Rezek	2005RE01	1154

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EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
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3715

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,775

Applicant(s)

REZEK, EDWARD ALLEN

Examiner

Chanda L. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 33-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33,34,38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-5,7,35,37,39 and 41-47 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

In response to the Amendment filed 7/22/05, Claims 1-5, 7, and 33-47 are pending.

Claims 6 and 8-32 are cancelled.

Claim Objections

1. Claims 1-5 and 7 are objected to because of the following informalities:
 - Claim 1 recites the limitation "provided descriptions" in line 5. There is insufficient antecedent basis for this limitation in the claim.
 - Claim 1 recites the limitation "the means for obtaining decisions" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

2. Claims 36-37 are objected to because of the following informalities:
 - Claim 36 recites the limitation "brief descriptions" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

3. Claim 42 is objected to because of the following informalities: Line 10: "worksheets each worksheet" should be -- worksheets, each worksheet --.

Appropriate correction is required.

4. Claims 42-47 are objected to because of the following informalities:

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Claim 42 recites the limitation "the associated particular summary" in line 12. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Applicant claims a system but recites limitations for a system and also recites a method and limitations for a method. It is not clear what Applicant intends to claim. Does Applicant mean to claim a system or a method?
- In Claim 1, line 12: Applicant recites "the second region for a summary of the experience". Which experience is Applicant referring to?

2. Claims 42-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- "To cross-reference from the description of experience to personality traits" –

Does this refer to the electronic media or the student?

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- “To record in a first region of the worksheet a set of personality traits obtained via-cross-referencing in accordance with the decisions, and in a second region of the worksheet associated with the first region a summary of the experience” –

Does this refer to the electronic media or the student?

- “That maintains storage for the electronic media for a plurality of worksheets, each worksheets according to a respective experience of the plurality” –

Does this refer to the computer?

- “That outputs an instruction for the student to use a member of a particular set of personality traits to recall the associated particular summary and to retell the recalled summary in answer to a question during an interview” –

Does this refer to the computer or the electronic media?

- Line 11: Plurality of what?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-5 and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is not directed to one statutory class of invention. Instead, it is directed to two separate statutory classes of invention, a system and a method. See *IPXL Holdings, LLC v. Amazon.com, Inc.*, 333 F. Supp. 2d 513 (E.D. Va. 2004).

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2. Claims 35, 37, 39, and 41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant's claims to a memory are not considered to be directed to statutory subject matter because they do not provide a practical application by producing a useful, concrete, and tangible result as a memory comprising instructions can be a the human brain or a printed sheet of paper. "For a computer to perform the method ..." is considered to be a statement of intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art if the prior art structure is capable of performing the intended use.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35, 37, 39, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson (US 4,681,548).

[Claims 35,37,39,41]: Regarding Claims 35, 37, 39, and 41, Lemelson discloses a memory comprising instructions (i.e., printed instructions on the card). See Col.5: 61-64. "For a computer to perform the method ..." is considered to be a statement of intended use. A recitation of the intended use of the claimed invention must result in a

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structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art if the prior art structure is capable of performing the intended use.

Allowable Subject Matter

1. Claims 33, 34, 38, and 40 are allowed.
2. Claims 42-47 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Eisendrath et al. (US 6,347,333)
-virtual interview to develop interviewing skills

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Chanda L. Harris
Chanda L. Harris
Primary Examiner
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